

STATE OF INDIANA) IN THE MARION CIRCUIT/SUPERIOR COURT
) SS:
COUNTY OF MARION) CAUSE NO. _____

STATE OF INDIANA,)
)
 Plaintiff,)
)
 v.)
)
CLARENCE GRANT, JR.,)
)
 Defendant.)

49D05 07 08 PL 0 33 1 9 0

FILED

AUG 09 2007

129

Elizabeth A. White
CLERK OF THE MARION CIRCUIT COURT

**COMPLAINT FOR INJUNCTION,
RESTITUTION, COSTS, AND CIVIL PENALTIES**

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, petitions the Court pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1, *et seq.*, and the Indiana Home Improvement Contracts Act, Ind. Code § 24-5-11-1, *et seq.*, for injunctive relief, consumer restitution, investigative costs, civil penalties, and other relief.

PARTIES

1. The Plaintiff, State of Indiana, is authorized to bring this action and to seek injunctive and other statutory relief pursuant to Ind. Code § 24-5-0.5-4(c) and Ind. Code § 24-5-11-14.

2. The Defendant, Clarence Grant, Jr., is an individual engaged in business as a home improvement contractor with a principal place of business in Marion County, located at 5910 Crooked Creek Drive, Indianapolis, Indiana, 46228.

FACTS

3. On or about August 7, 2006, the Defendant entered into a written contract with Janice Smith ("Smith") of Indianapolis, Indiana, wherein the Defendant represented he would replace windows, as well as repair and replace brick work and wood decking on Smith's home for a total price of Two Thousand Nine Hundred and Seventy-five Dollars (\$2,975.00), which Smith paid. Attached and incorporated by reference as Exhibit "A" is a true and accurate copy of the contract Smith received.

4. The Defendant failed to provide a home improvement contract containing the following information to Smith:

- a. The name of the consumer;
- b. The address of the Defendant and each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed;
- c. A reasonably detailed description of the proposed home improvements, or a statement the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications;
- d. The approximate starting and completion date of the home improvements;
- e. A statement of any contingencies that would materially change the approximate completion date;

f. A legible printed or typed version of the Defendant, Defendant's agent, and each consumer's name placed directly after or below the signature;

5. The Defendant was not listed as a contractor in Marion County at the time of contract formation, as required by the *Revised Code of the Consolidated City and County*, Chapter 875, Section 101.

6. Pursuant to Ind. Code § 24-5-0.5-3(a)(10), the Defendant is presumed to have represented at the time of contract formation he would complete the job, pursuant to the terms of the contract, within a reasonable period of time.

7. The Defendant has neither completed the work on Smith's home as represented, nor issued a refund to Smith.

COUNT I - VIOLATIONS OF THE HOME IMPROVEMENT CONTRACTS ACT

8. The services described in paragraph 3, are "home improvements" as defined by Ind. Code § 24-5-11-3.

9. The transaction referred to in paragraph 3 is a "home improvement contract" as defined by Ind. Code § 24-5-11-4.

10. The Defendant is a "supplier" as defined by Ind. Code § 24-5-11-6.

11. By failing to provide the consumer with a completed home improvement contract containing the information referred to in paragraph 4, the Defendant violated the Home Improvement Contracts Act, Ind. Code § 24-5-11-10.

COUNT II - VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

12. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 11 above.

13. The transaction referred to in paragraph 3 is a “consumer transaction” as defined by Ind. Code § 24-5-0.5-2(a)(1).

14. The Defendant is a “supplier” as defined by Ind. Code § 24-5-0.5-2(a)(3).

15. The Defendant’s violations of the Indiana Home Improvement Contracts Act, referred to in paragraph 4, constitute deceptive acts by the Defendant, in accordance with Ind. Code § 24-5-11-14.

16. The Defendant’s representation to Smith that the consumer transaction had characteristics or benefits it did not have, when the Defendant knew or reasonably should have known the transaction did not have such, as referenced in paragraph 3, constitutes a violation of the Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3(a)(1).

17. The Defendant’s representations to Smith that he would be able to deliver or complete the subject of the consumer transaction within a reasonable period of time, when the Defendant knew or reasonably should have known he could not, as referenced in paragraph 6, constitute violations of the Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3(a)(10).

18. By failing to properly list himself with Marion County, prior to engaging in, or soliciting to engage in, the consumer transaction with Smith, as referenced in paragraph 5, the Defendant violated the Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-10(a)(1).

**COUNT III – KNOWING AND INTENTIONAL VIOLATIONS
OF THE DECEPTIVE CONSUMER SALES ACT**

19. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 18 above.

20. The misrepresentations and deceptive acts set forth in paragraphs 3, 5, and 6 were committed by the Defendant with the knowledge and intent to deceive.

RELIEF

WHEREFORE, the Plaintiff, State of Indiana, requests the Court enter judgment against the Defendant, Clarence Grant, Jr., enjoining the Defendant from the following:

- a. in the course of entering into home improvement transactions, failing to provide to the consumer a written, completed home improvement contract, which includes at a minimum the following:
 - 1) The name of the consumer and the address of the residential property that is the subject of the home improvement;
 - 2) The name and address of the Defendant and each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed;
 - 3) The date the home improvement contract was submitted to the consumer and any time limitation on the consumer's acceptance of the home improvement contract;
 - 4) A reasonably detailed description of the proposed home improvements;

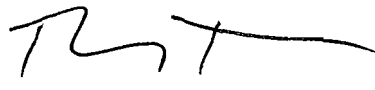
- 5) If the description required by Ind. Code §24-5-11-10(a)(4) does not include the specifications for the home improvement, a statement that the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications;
 - 6) The approximate starting and completion date of the home improvements;
 - 7) A statement of any contingencies that would materially change the approximate completion date;
 - 8) The home improvement contract price; and
 - 9) Signature lines for the Defendant or the Defendant's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or typed version of that person's name placed directly after or below the signature;
- b. in the course of entering into home improvement transactions, failing to agree unequivocally by written signature to all of the terms of a home improvement contract before the consumer signs the home improvement contract and before the consumer can be required to make any down payment;

- c. costs, pursuant to Ind. Code § 24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;
- d. on Count III of the Plaintiff's Complaint, civil penalties, pursuant to Ind. Code § 24-5-0.5-4(g), for the Defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of Five Thousand Dollars (\$5,000.00) per violation, payable to the State of Indiana;
- e. on Count III of the Plaintiff's Complaint, civil penalties, pursuant to Ind. Code § 24-5-0.5-8, for the Defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, payable to the State of Indiana; and
- f. all other just and proper relief.

Respectfully submitted,

STEVE CARTER
Indiana Attorney General
Atty. No. 4150-64

By:


Terry Tolliver
Deputy Attorney General
Atty. No. 22556-49

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**TOTAL HOME MAINTENANCE
CHARLIE GRANT JR.
RAGER 302-427
CELL 514-1081**

"WHERE SATISFACTION IS MY MIDDLE NAME!"

PROPOSAL ESTIMATE

PROPOSAL 2975.00

DATE OF PROPOSAL 8/7/06 SUBMITTED TO: LAWICE

WORK TO BE COMPLETED AT: _____

ESTIMATE NOTES: _____

To replace 13 windows / window & wrap
wrap 1 window
2,400.00

To repair & replace brick work in
front porch area and wood decking
step. 575.00

DATE: 8-7-06 SUBMITTED BY: Charlie Grant

ACCEPTED BY: Jennie Smith

DOWN PAYMENT (65%) \$1,750.00 8/18/06 TOTAL BAL. \$1,225.00
(WILL BE SUBTRACTED FROM TOTAL BALANCE DUE.)

